

## R E M A R K S

### A. INTRODUCTION

Claims 1-3, 5-13, 15-21, 23-27 and 29-43 were rejected in the Final Office Action mailed on August 8, 2008 (the “Final Action” hereinafter). In accordance with 37 CFR §1.116(b), Applicants hereby file the present Amendment After Final Action cancelling claims, and making some minor amendments to several claims as explained below.

Upon entry of this Amendment:

- Claims 1-18, 22, 28 and 34 will be cancelled;
- Claims 19, 21 and 23 will be amended;
- Claims 19-21, 23-27, 29-33 and 35-43 will be pending; and
- Claims 19, 26, 32, 33 and 35 will be the only independent claims (5 independent claims)

Claims 19, 21 and 23 have been amended to correct typographical errors. In particular, claim 19 has been amended in line 6 to delete the word “including” because it is redundant in view of the word “having”. Claim 21, line 1 has been amended to insert the words “further comprising” which were inadvertently omitted due to a clerical error, and claim 23, line 3 has been amended to replace the word “form” with “forms” so that the verb agrees with the subject of that sentence. No new matter has been added.

Applicants respectfully request entry of this Amendment as it places the application in better form for appeal (and a Notice of Appeal has been filed concurrently herewith, as explained below).

### B. SECTION 102(E) / 103(A) REJECTIONS

Claims 1-3, 5-11, 13, 15-21, 23-27 and 29-34 stand rejected under Section 102(e) or in the alternative under Section 103(a), for allegedly being obvious over Riendeau et al., U.S. Patent No. 6,761,633 (hereinafter “Riendeau”) in view of Smith, U.S. Patent No. 5,411,260 (hereinafter “Smith”).

Claim 12 was rejected under Section 103(a) in light of Riendeau and Sultan, U.S. Patent No. 6,273,817 (hereinafter “Sultan”).

**C. NOTICE OF APPEAL AND PRE-APPEAL BRIEF REQUEST FOR REVIEW**

A Notice of Appeal and a Pre-Appeal Brief Request for Review have been filed concurrently herewith. The Pre-Appeal Brief Request for Review addresses the Examiner's rejections under Sections 102(e) and 103(a) of the Final Action as applied to the pending claims, and those arguments will not be repeated herein for the sake of brevity.

**D. THE INFORMATION DISCLOSURE STATEMENT FILED ON MAY 5, 2008**

Applicants filed an Information Disclosure Statement (IDS) on May 5, 2008 after the period specified in 37 C.F.R. § 1.97(b) (but before the mailing date of the current Final Action) under § 1.113 along with the requisite fee. However, none of the Office Actions cited therein was considered (each such listing was lined-through by the Examiner) ostensibly because the Information Disclosure Citation form that listed the Offices Actions was in an "incorrect format". However, contrary to the assertion of the Examiner on page 2 of the Final Action, MPEP Section 609.04(a) does not require any particular format for citing an Office Action. The Examiner admitted to Applicant's representative during a phone conversation on November 7, 2008 that such a format is not required, and instructed Applicants to resubmit the IDS in the requested format. Accordingly, Applicants hereby resubmit the IDS listing the same Office Actions with the exception that the inventor name(s) and filing dates of corresponding U.S. applications have been added. In view of the above remarks, we respectfully request entry of the IDS into the application, and request that the Examiner fully consider the cited references.

No fees are believed to be due for filing the current IDS, as Applicants believe that payment of the required surcharge fee has already been made when the IDS was first filed on May 5, 2008.

**E. ADDITIONAL COMMENTS**

Our silence with respect to the Examiner's other various assertions not explicitly addressed in this paper or in the Pre-Appeal Brief Request for Review filed concurrently herewith, including assertions of what the cited reference(s) teach or suggest, the Examiner's interpretation of claimed subject matter or the Specification, or the propriety of any asserted combination(s) of teachings, is not to be understood as agreement with the Examiner. As the Examiner has not established an unrebuttable *prima facie* case for rejecting any of the claims as pending, for at least the reasons stated in the Pre-Appeal Brief Request for Review, we need not address all of the Examiner's assertions at this time. Also, the absence of arguments for patentability other than those presented in the Pre-Appeal Brief Request for Review should not be construed as either a disclaimer of such arguments or as an indication that such arguments are not believed to be meritorious.

**F. AUTHORIZATION TO CHARGE APPROPRIATE FEES**

As the present Amendment is being filed within three months of the Final Action, Applicants therefore do not believe that a fee is due, but if any fee accrues, or should any other fee be necessary to continue prosecution of the present application, please charge any such required fee to our Deposit Account No. 50-0271; Order No. 98-076-C1. In addition, please credit any overpayment to Deposit Account No. 50-0271.

**G. CONCLUSION**

It is respectfully submitted that, in view of the arguments presented in the accompanying Pre-Appeal Brief Request for Review, all of the pending claims are in condition for allowance. Thus, Applicants respectfully request withdrawal of all of the claim rejections and allowance of the application.

If the Examiner has any questions regarding this Amendment or the present application, the Examiner is cordially requested to contact Stephan Filipek at telephone number (203) 461-7252 or via email at [sfilipek@walkerdigital.com](mailto:sfilipek@walkerdigital.com).

Respectfully submitted,

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Date

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